IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

CRP.No. 672 of 2005()

OPELE.13/2002 of ADDL. DISTRICT COURT, THODUPUZHA
.....

REVN. PETITIONER: RESPONDENT:

KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, K.S.E.BOARD,
THIRUVANANTHAPURAM.

BY ADV. SRI.T.R.RAMACHANDRAN NAIR, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENTS: PETITIONER:

JIJI JOSE, W/O. JOSE,
EATTAKUNNEL HOUSE, ARAKULAM VILLAGE,
MOOLAMATTOM KARA.

BY ADV. SRI.V.PHILIP MATHEW

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 672 OF 2005

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Dated this the 3rd day of December, 2007.

O R D E R

This revision petition is preferred against the order of the Addl. District Judge, Thodupuzha in O.P(Ele.)13/02 whereby the Court awarded a compensation of Rs.3,78,740/- with 9% interest. It is submitted by the learned counsel for the revision petitioner that the Court fixed the compensation on the basis of the decision of this Court reported in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542).*** Now it is brought to my notice that the Apex Court has remitted the matters back to the High Court for fresh consideration with a direction that each case has to be considered on the facts and circumstances of that case. The Apex Court has also held as follows.

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative.

> The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

2. So, in the light of the principles laid down it may be relevant to adduce additional evidence both oral and documentary to prove the case by the parties in support of their respective contentions. Therefore, the order under challenge is set aside and the matter is remitted back to the Court below to consider the whole question afresh after affording equal opportunities to both sides to adduce both oral and documentary evidence in support of their respective contentions and decide the case in the light of the principles

laid down in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***). The parties are directed to appear before the Court below on 15.1.2008.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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